

#81

Zoning Case No. C14-2012-0092

RESTRICTIVE COVENANT

OWNER: Aggiego Austin, LTD, a limited partnership

ADDRESS: 3608 East 29th Street, Suite 100, Bryan, Texas 77802

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: 15.052 acre tract of land out of the F.M. Hodges Survey No. 22, Abstract 377, said 15.052 acre tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owner (the "Owner", whether one or more), of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by HDR Engineering, Inc., dated July 18, 2012, or as amended and approved by the Director of the Planning and Development Review Department. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Planning and Development Review Department, dated December 12, 2012. The TIA shall be kept on file at the Planning and Development Review Department.
2. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and to collect damages for such actions.

3. If any part of this Agreement is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Agreement, and such remaining portion of this Agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This Agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2013.

OWNER:

AGGIEGO AUSTIN, LTD.,
A Texas limited partnership

By: Paul J. Clarke, Inc.,
A Texas corporation
Its General Partner

By: _____
Paul J. Clarke
President

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged before me on this the ____ day of _____, 2013, by Paul J. Clarke, President of Paul J. Clarke, Inc., a Texas corporation, general partner of Aggiego Austin, Ltd., a Texas limited partnership on behalf of said corporation.

Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Law Department
P. O. Box 1088
Austin, Texas 78767
Attention: J. Collins, Paralegal



C14-2012-0092

METES AND BOUNDS DESCRIPTION FOR 15.052 ACRES OF LAND IN THE F.M. HODGES SURVEY NO. 22, ABSTRACT 377, TRAVIS COUNTY, TEXAS AND BEING ALL OR PART OF THE FOLLOWING TRACTS OF LAND: 1.98 ACRES RECORDED IN DOCUMENT NO. 2005134626, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, 6.26 ACRES RECORDED IN DOCUMENT NO. 2005134625, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, 3.692 ACRES RECORDED IN DOCUMENT NO. 2010096165, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, 1.866 ACRES RECORDED IN DOCUMENT NO. 2010096164, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, 0.224 ACRES RECORDED IN DOCUMENT NO. 2010096165, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, 0.31 ACRES RECORDED IN DOCUMENT NO. 2004197569, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, AND 1.789 ACRES RECORDED IN DOCUMENT NO. 2011160684, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

BEGINNING AT AN IRON ROD FOUND IN THE EAST RIGHT OF WAY LINE OF SOUTH CONGRESS AVENUE (LOOP 275) AT THE NORTHWEST CORNER OF LOT 1, JAMES H. WATSON SUBDIVISION, RECORDED IN BOOK 95, PAGE 389, PLAT RECORDS, TRAVIS COUNTY, TEXAS, BEING THE SOUTHWEST CORNER OF THIS TRACT;

THENCE WITH THE EAST RIGHT OF WAY LINE OF SAID SOUTH CONGRESS AVENUE THE FOLLOWING FOUR (4) COURSES AND DISTANCES:

- 1. NORTH 02°28'55" WEST, A DISTANCE OF 35.56 FEET TO AN IRON ROD WITH TXDOT ALUMINUM CAP FOUND FOR A POINT OF CURVATURE IN THE WEST LINE OF THIS TRACT;**
- 2. ALONG A CURVE TO THE RIGHT IN A NORTHEASTERLY DIRECTION, SAID CURVE HAVING A RADIUS LENGTH OF 740.00 FEET, AN ARC LENGTH OF 619.75 FEET, A DELTA ANGLE OF 47°59'06" AND A CHORD LENGTH OF 601.79 FEET BEARING NORTH 21°30'37" EAST TO AN IRON ROD WITH TXDOT ALUMINUM CAP FOUND FOR A POINT OF TANGENCY IN THE WEST LINE OF THIS TRACT;**
- 3. NORTH 45°31'37" EAST, A DISTANCE OF 585.90 FEET TO AN IRON ROD WITH TXDOT ALUMINUM CAP FOUND FOR A POINT OF CURVATURE IN THE WEST LINE OF THIS TRACT;**
- 4. ALONG A CURVE TO THE LEFT IN A NORTHEASTERLY DIRECTION, SAID CURVE HAVING A RADIUS LENGTH OF 863.67 FEET, AN ARC LENGTH OF 23.10 FEET, A DELTA ANGLE OF 01°31'57" AND A CHORD LENGTH OF 23.10 FEET BEARING NORTH 44°42'24" EAST TO A 1/2" IRON ROD WITH PLASTIC CAP MARKED "G&R SURVEYING" SET FOR THE SOUTHWEST CORNER OF A 1.039 ACRE TRACT RECORDED IN DOCUMENT NO. 2011160685, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS AND THE NORTHWEST CORNER OF THIS TRACT;**

THENCE SOUTH 50°58'31" EAST WITH THE SOUTH LINE OF SAID 1.039 ACRE TRACT, PASSING ITS SOUTHEAST CORNER AND CONTINUING FOR A TOTAL DISTANCE OF 537.04 FEET TO A 1/2" IRON ROD WITH PLASTIC CAP MARKED "G&R SURVEYING" SET IN THE WEST RIGHT OF WAY LINE OF INTERSTATE 35 FOR THE NORTHEAST CORNER OF THIS TRACT;



THENCE WITH THE WEST RIGHT OF WAY LINE OF SAID INTERSTATE 35 THE FOLLOWING THREE (3) COURSES AND DISTANCES:

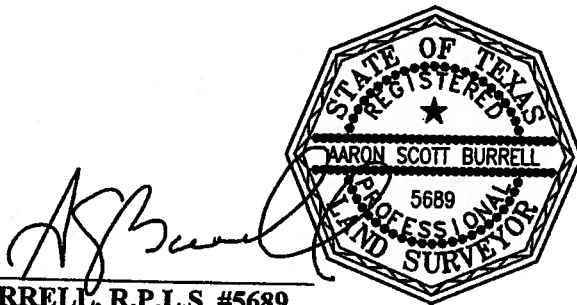
- 1. SOUTH 28°24'03" WEST, A DISTANCE OF 314.14 FEET TO A TXDOT CONCRETE MARKER FOUND FOR A POINT OF DEFLECTION IN THE EAST LINE OF THIS TRACT;**
- 2. NORTH 61°36'35" WEST, A DISTANCE OF 52.00 FEET TO AN IRON ROD FOUND FOR A POINT OF DEFLECTION IN THE EAST LINE OF THIS TRACT;**
- 3. SOUTH 38°48'27" WEST, A DISTANCE OF 696.22 FEET TO AN IRON ROD FOUND FOR THE SOUTHEAST CORNER OF THIS TRACT;**

THENCE NORTH 75°56'19" WEST WITH THE WEST RIGHT OF WAY LINE OF SAID INTERSTATE 35, PASSING SAID RIGHT OF WAY LINE AND THE NORTHEAST CORNER OF SAID LOT 1, JAMES H. WATSON SUBDIVISION AND CONTINUING WITH THE NORTH LINE OF SAID LOT 1 FOR A TOTAL DISTANCE OF 452.75 FEET TO THE POINT OF BEGINNING.

CONTAINING 15.052 ACRES OF LAND, MORE OR LESS.

BEARINGS ARE BASED ON THE TEXAS COORDINATE SYSTEM, NAD 83, CENTRAL ZONE (CORS).

I, AARON S. BURRELL, A REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 5689, DO HEREBY CERTIFY THAT THE ABOVE DESCRIPTION AND ATTACHED EXHIBIT ARE BASED ON AN ACTUAL ON THE GROUND SURVEY UNDER MY DIRECT SUPERVISION AND ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.



AARON S. BURRELL, R.P.L.S. #5689
G&R SURVEYING, LLC
STATE OF TEXAS
JULY 19, 2012

SEE ATTACHED EXHIBIT

G&R SURVEYING PROJECT NO. 11242

1805 Ouida Drive, Austin, TX 78728
Phone (512)267-7430 • Fax (512)836-8385

SCANNED

NOTES:

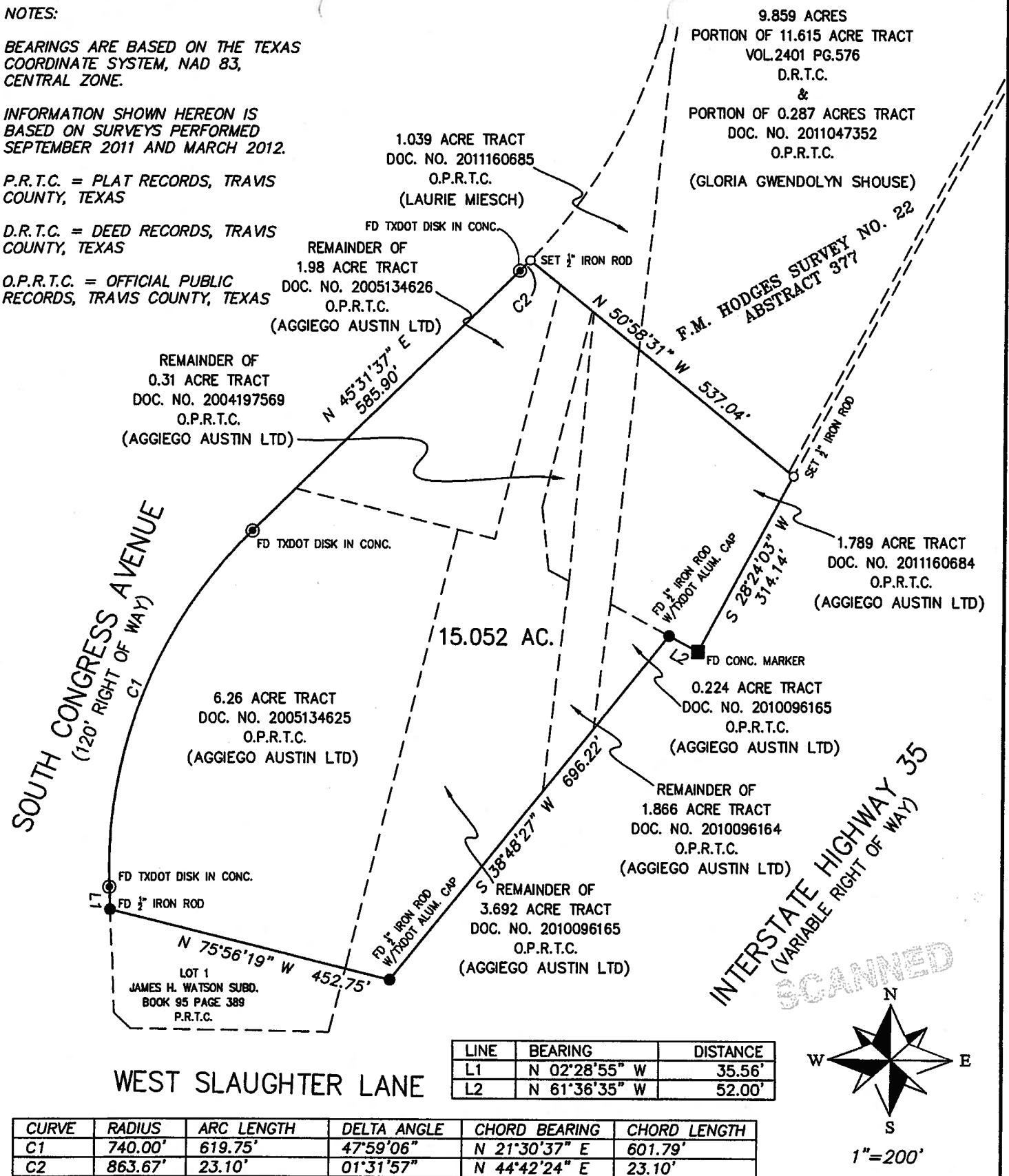
BEARINGS ARE BASED ON THE TEXAS
COORDINATE SYSTEM, NAD 83,
CENTRAL ZONE.

INFORMATION SHOWN HEREON IS
BASED ON SURVEYS PERFORMED
SEPTEMBER 2011 AND MARCH 2012.

P.R.T.C. = PLAT RECORDS, TRAVIS
COUNTY, TEXAS

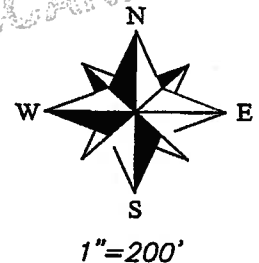
D.R.T.C. = DEED RECORDS, TRAVIS
COUNTY, TEXAS

O.P.R.T.C. = OFFICIAL PUBLIC
RECORDS, TRAVIS COUNTY, TEXAS



LINE	BEARING	DISTANCE
L1	N 02°28'55" W	35.56'
L2	N 61°36'35" W	52.00'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	740.00'	619.75'	47°59'06"	N 21°30'37" E	601.79'
C2	863.67'	23.10'	01°31'57"	N 44°42'24" E	23.10'



SHEET

1

1

AGGIEGO
AUSTIN
LTD

PLOTTING SCALE: 1" = 200'

DRAWN BY: A.S.B.

REVIEWED BY: D.R.S.

PROJECT NO: 11242

FILE: L:\11242\DWG\11242_GR-PHS-1-

DATE: JULY 19, 2012

G&R
SURVEYING, LLC
1805 OUIDA DR.
AUSTIN, TEXAS 78728
PHONE: (512) 267-7430
FAX: (512) 836-8385

15.052 AC. TRACT
F.M. HODGES SURVEY NO. 22,
ABSTRACT 377,
TRAVIS COUNTY, TEXAS